



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 30, 1998

Mr. Joel V. Roberts
City Attorney
City of Odessa
Legal Department
P.O. Box 4398
Odessa, Texas 79760-4398

OR98-0825

Dear Mr. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113886.

The City of Odessa (the "city") received two requests for the personnel records and related information of a city employee. You state that you have released most of the requested information. You claim that the remaining requested information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Although you claim that section 552.101 excepts the information submitted for our review from disclosure pursuant to the attorney-client privilege, the attorney-client privilege is properly claimed under section 552.107. Open Records Decision No. 574 (1990) at 2. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* Moreover, the voluntary disclosure of privileged material to outside parties results in waiver of the attorney-client privilege. Open Records No. 630 (1994) at 4. You state that the document at issue was not shown or discussed with the employee, but rather,

was returned unsigned to the attorneys who prepared it. We find that the document submitted reveals the attorneys' advice or opinion and, therefore, the city may withhold it under section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 113886

Enclosures: Submitted documents

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